

DISCUSSION DRAFT116TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Immigration and Nationality Act to reform asylum procedure,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HURD of Texas introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Immigration and Nationality Act to reform
asylum procedure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Asylum Reform Act
5 of 2019”.

6 **SEC. 2. LIMITATIONS ON ASYLUM ELIGIBILITY.**

7 (a) ARRIVAL AT PORT OF ARRIVAL REQUIRED.—Sec-
8 tion 208 of the Immigration and Nationality Act (8 U.S.C.
9 1158) is amended

1 (1) IN GENERAL.—Section 208(a) of the Immi-
2 gration and Nationality Act (8 U.S.C. 1158) is
3 amended—

4 (A) in paragraph (1), by striking “who ar-
5 rives in the United States (whether or not at a
6 designated port of arrival and including an
7 alien who is brought to the United States after
8 having been interdicted in international or
9 United States waters),” and inserting “who ar-
10 rives in the United States at a designated port
11 of entry”; and

12 (B) in paragraph (2)—

13 (i) in subparagraph (B), by striking
14 “1 year” and inserting “48 hours”;

15 (ii) by adding at the end the fol-
16 lowing:

17 “(F) LIMITATION ON PORT OF ARRIVAL
18 REQUIREMENT.—The requirement under para-
19 graph (1) that an alien seeking asylum arrive in
20 the United States at a designated port of ar-
21 rival shall not apply in the case of an alien
22 who—

23 “(i) is seeking asylum in the United
24 States because of persecution or a well-

1 founded fear of persecution in a contiguous
2 foreign territory;

3 “(ii) presents himself without delay,
4 but in no case later than 48 hours after il-
5 legally entering the United States or at-
6 tempting such entry, to an immigration of-
7 ficer; and

8 “(iii) shows good cause for his illegal
9 entry or attempted entry, except that good
10 cause does not include the evasion of immi-
11 gration officers, circumvention of the or-
12 derly processing of asylum seekers at a
13 port of arrival, or convenience.”.

14 (c) ASYLUM IN A CONTIGUOUS FOREIGN TERRI-
15 TORY.—Section 208(a)(2) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1158(a)(2)), as amended by this Act,
17 is further amended by adding at the end the following:

18 “(G) ASYLUM IN A CONTIGUOUS FOREIGN
19 TERRITORY.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), paragraph (1) shall not
22 apply to an alien who entered the United
23 States directly from a foreign territory
24 contiguous to the United States who has
25 not applied for and been denied asylum or

1 a similar protection from removal by that
2 contiguous foreign territory's government.

3 “(ii) EXCEPTION.—Clause (i) shall
4 not apply to an alien who—

5 “(I) is seeking asylum in the
6 United States because of persecution
7 or a well-founded fear of persecution
8 in that contiguous foreign territory;

9 “(II) presents himself without
10 delay, but in no case later than 48
11 hours after illegally entering the
12 United States or attempting such
13 entry, to an immigration officer; and

14 “(III) shows good cause for his
15 illegal entry or attempted entry, ex-
16 cept that good cause does not include
17 the evasion of immigration officers,
18 circumvention of the orderly proc-
19 essing of asylum seekers at a port of
20 arrival, or convenience.”.

21 (d) CREDIBLE FEAR INTERVIEWS.—Section
22 235(b)(1)(B) of the Immigration and Nationality Act (8
23 U.S.C. 1225(b)(1)(B)) is amended by adding at the end
24 the following:

25 “(vi) INELIGIBILITY FOR ASYLUM.—

1 “(I) IN GENERAL.—If an alien is
2 ineligible to apply for asylum pursu-
3 ant to section 208(a)(1) because the
4 alien was physically present in the
5 United States without having been ad-
6 mitted or paroled to the United
7 States, but indicates either an inten-
8 tion to apply for asylum under section
9 208 or a fear of persecution, the alien
10 shall be referred to an asylum officer
11 to determine whether the alien has a
12 reasonable fear of persecution. If the
13 asylum officer determines that the
14 alien has a reasonable fear of persecu-
15 tion, the alien shall be detained for
16 further consideration of a withholding
17 of removal claim under section
18 241(b)(3). If the officer determines
19 that an alien does not have a reason-
20 able fear of persecution, the officer
21 shall order the alien removed from the
22 United States without further hearing
23 or review.

24 “(II) REASONABLE FEAR OF
25 PERSECUTION.—An alien shall be de-

1 terminated to have a reasonable fear of
2 persecution for purposes of this clause
3 if the alien establishes a reasonable
4 possibility, consistent with the re-
5 quirements under section
6 208(b)(1)(B), that the alien would be
7 persecuted on account of race, reli-
8 gion, nationality, membership in a
9 particular social group, or political
10 opinion in the country of removal.”.

11 **SEC. 4. SAFE THIRD COUNTRY REFORM.**

12 Section 208(a)(2)(A) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

14 (1) by striking “Attorney General” each place
15 it appears and inserting “Secretary of Homeland Se-
16 curity”; and

17 (2) by striking “removed, pursuant to a bilat-
18 eral or multilateral agreement, to” and inserting
19 “removed to”.

20 **SEC. 5. CREDIBLE FEAR REFORM.**

21 Section 235(b)(1)(B)(v) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
23 striking “claim” and all that follows and inserting “claim,
24 as determined pursuant to section 208(b)(1)(B), and such
25 other facts as are known to the officer, that the alien could

1 establish eligibility for asylum under section 208, and it
2 is more probable than not that statements made by, and
3 on behalf of, the alien in support of the alien's claim are
4 true.”.

5 **SEC. 6. INCREASE OF LIMITATIONS PERIOD FOR IMMIGRA-**
6 **TION FRAUD.**

7 Section 3291 of title 18, United States Code, is
8 amended by—

9 (1) amending the heading to read “**Nation-**
10 **ality and Immigration**”; and

11 (2) striking “and sections 1541 to 1544, inclu-
12 sive,” and inserting “or”.

13 **SEC. 7. FRIVOLOUS ASYLUM APPLICATIONS.**

14 Section 208(d) of the Immigration and Nationality
15 Act (8 U.S.C. 1158(d)) is amended—

16 (1) in paragraph (4)—

17 (A) in the matter preceding subparagraph

18 (A), by inserting “the Secretary of Homeland
19 Security or” before “the Attorney General”;

20 (B) in subparagraph (A), by striking “and
21 of the consequences, under paragraph (6), of
22 knowingly filing a frivolous application for asy-
23 lum”;

24 (C) in subparagraph (B), by striking the
25 period and inserting “; and”; and

1 (D) by adding after subparagraph (B) the
2 following:

3 “(C) ensure that a written warning ap-
4 pears on the asylum application advising the
5 alien of the consequences of filing a frivolous
6 application and serving as notice to the alien of
7 the consequences of filing a frivolous applica-
8 tion”.

9 (2) in paragraph (6)—

10 (A) by striking “If the” and all that fol-
11 lows and inserting the following:

12 “(A) If the Secretary of Homeland Secu-
13 rity or the Attorney General determines that an
14 alien has knowingly made a frivolous applica-
15 tion for asylum and the alien has received the
16 notice under paragraph (4)(C), the alien shall
17 be permanently ineligible for any benefits under
18 this Act, effective as of the date of a final de-
19 termination on such application.”; and

20 (B) by adding at the end the following:

21 “(B) An application may be found frivo-
22 lous if the Secretary or Attorney General deter-
23 mines that—

24 “(i) the application is insufficient in
25 substance such that it is clear that the ap-

1 plicant knowingly filed the application
2 without intending to pursue the merits of
3 his or her asylum claim, and filed such ap-
4 plication solely—

5 “(I) to delay removal from the
6 United States;

7 “(II) to seek employment author-
8 ization as an applicant for asylum
9 pursuant to regulations issued pursu-
10 ant to paragraph (2); or

11 “(III) in the case of an applicant
12 who has not yet had removal pro-
13 ceedings initiated under section 239,
14 to seek issuance of a notice to appear
15 in order to pursue cancellation of re-
16 moval under section 240A(b); or

17 “(ii) any material element of the ap-
18 plication was deliberately fabricated.

19 “(C) The Secretary of the Attorney Gen-
20 eral may only make a finding described in sub-
21 paragraph (B) if the Secretary or Attorney
22 General, as applicable, is satisfied that the ap-
23 plicant, during the course of the proceedings,
24 has had sufficient opportunity to account for
25 any discrepancies or implausible aspects of the

1 claim. A finding that an alien filed a frivolous
2 asylum application shall not preclude the alien
3 from seeking withholding of removal under sec-
4 tion 241(b)(3).”.

5 **SEC. 3. APPLICATION.**

6 (1) IN GENERAL.—The amendments made by
7 this Act shall apply to all applications for asylum
8 filed on or after the date of enactment of this Act.

9 (2) EXCEPTION.—Notwithstanding subpara-
10 graph (A), the amendments made by paragraph (1)
11 shall not apply to an application filed on or after the
12 date of the enactment of this Act in the case of an
13 alien who—

14 (A) arrived in the United States prior to
15 the date of the enactment of this Act; and

16 (B) received a positive credible fear deter-
17 mination under section 235(b)(1)(B) of the Im-
18 migration and Nationality Act (8 U.S.C.
19 1225(b)(1)) if a credible fear determination was
20 made under such section.